

Joint Appendix 1

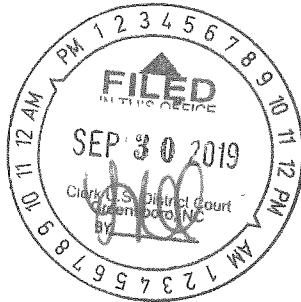
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MAKE AMERICA GREAT AGAIN



UNITED STATES DISTRICT COURT CASE NO. 1:13-CR-435-1
MIDDLE DISTRICT OF NORTH CAROLINA
UNITED STATES COURT OF APPEALS
FOURTH CIRCUIT CASE NO. 19-7483

Joint Appendix in attachment to "INFORMAL BRIEF, No. 19-7483, US v. Brian Hill"
U.S. Court of Appeals for the Fourth Circuit

In the United States District Court
For the Middle District of North Carolina



MOTION TO DISQUALIFY JUDGE

**MOTION AND BRIEF / MEMORANDUM OF LAW REQUESTING THE
HONORABLE THOMAS D. SCHROEDER RECUSE HIMSELF FROM
ANY FURTHER ACTIONS AND PROCEEDINGS IN THIS CASE**

Pursuant to Title 28 U.S. Code § 455 “Disqualification of justice, judge, or magistrate judge”, the Defendant Brian David Hill (“Brian D. Hill”, “Hill”, “Brian”, “Defendant”), proceeding Pro Se in this action, respectfully requests that the Honorable U.S. District Court Chief Judge Thomas D. Schroeder (“Hon. Judge Schroeder”) recuse himself from any further actions and proceedings in this case in the United States District Court for the Middle District of North Carolina.

FACTS THAT REPRESENT PARTIALITY AND BIAS TOWARDS THE DEFENDANT AND ALWAYS IN FAVOR OF THE GOVERNMENT

Brian had noticed at the Final Revocation hearing dated September 12, 2019, that the Hon. Thomas D. Schroeder had exhibited extreme bias and prejudice towards

Defendant and led to drastic consequences against Defendant and his constitutional rights.

First consequence was that Brian was given the statutory maximum imprisonment and revocation based upon the Government's recommendation while ignoring the statements by United States Probation Officer Jason McMurray, the supervising officer. The Hon. Judge Schroeder ignored the Declaration under Document #181, known as the "EVIDENCE DECLARATION OF BRIAN DAVID HILL REGARDING CARBON MONOXIDE AND LETTER TO MARTINSVILLE POLICE CHIEF IN OPPOSITION TO GOVERNMENT'S/RESPONDENT'S DOCUMENTS #156, #157, #158, #159 AND #160". In fact the Hon. Judge Schroeder did not even admit this Declaration and attached evidence under Document #186 "Exhibit and Witness List". Basically stated that Defendant offered no submission of evidence (no evidence) for the current SRV charge which isn't true. When evidence is filed in opposition to the charging Document in a case, that evidence should have been tried before the Judge and taken into consideration.

These declarations/evidence were also ignored and not admitted into evidence and neither was it taken into consideration for the final SRV revocation outcome:

06/24/2019 #178 DECLARATION entitled "Evidence Declaration of Brian David Hill regarding State Pro Se Motion in Opposition to Government's/Respondent's Document #156, #157, and #158" filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah)
(Entered: 06/25/2019)

06/24/2019 #179 DECLARATION entitled "June 21, 2019 Declaration of Brian David Hill in Opposition to Government's/Respondent's Documents #156, #157, and #158" filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah) (Entered: 06/25/2019)

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04/11/2019 #173 DECLARATION entitled "Declaration of Brian David Hill in Opposition to Government's Documents 156 , 157 , and 158 " filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Garland, Leah) (Entered: 04/11/2019)

05/03/2019 #174 DECLARATION of BRIAN DAVID HILL entitled "Declaration of Brian David Hill in Opposition to Government's charging documents # 156 , # 157 , and # 158 " filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah) (Entered: 05/03/2019)

The transcripts still have not yet been furnished by the Court Reporter of that hearing, but Assistant United States Attorney Anand Prakash Ramaswamy (“Ramaswamy”) had made a verbal claim at that Final Revocation Hearing that the claimed Carbon Monoxide research was found on Wikipedia on the internet in an attempt to discredit both Roberta Hill (the witness) and Brian David Hill (the Defendant). Exhibit 3 under Document #181-4, was material that was researched by family and was cited from the National Institute of Health, a federal government organization of the United States. If you had noticed the little text in

that exhibit, it says “...ncbi.nlm.nih.gov...” which is a federal government domain name. It also cites reliable sources such as “*Kent Olson, MD, FACEP, FACMT, FACCT, Medical Director and Clinical Professor of Medicine & Pharmacy# and Craig Smollin, MD, Assistant Medical Director and Clinical Professor of Medicine*”. That was not from “Wikipedia” as Ramaswamy had claimed at the SRV revocation hearing. The Judge would have had access to that document (Document #181-4) and didn’t care to correct Ramaswamy on the fact that none of the research materials presented in Document #181 and attachments were from this alleged “Wikipedia”. That was a lie/falsehood by Ramaswamy and the judge knew that was a lie but he had decided to defend or protect Ramaswamy and ignore the testimony of both Roberta Hill and United States Probation Officer Jason McMurray (“McMurray”) to give Defendant the maximum punishment for this revocation. Exhibit 6 from Document #181-7 was sourced from the Centers for Disease Control (“CDC”) which is also a well-respected federal government agency that deals with public health and safety. So Ramaswamy was attempting to demean these federal agencies as calling them collectively, “Wikipedia” type of source when he had questioned witness Roberta Hill on the stand in an attempt to discredit Brian David Hill’s claims and Roberta Hill to make them out to be either incompetent, not credible, or liars.

Federal Rules of Evidence, Rule 706(a) "Court-Appointed Expert Witnesses" it states that Rule 706 allows a court to appoint an expert witness either “on its own motion or on the motion of any party.” The Hon. Judge Schroeder also had decided to dismiss any such notion of Carbon Monoxide to being any such cause for the Defendant’s unusual and abnormal behavior on September 21, 2018, and stated on record that Roberta Hill is not an expert witness but refused to resolve the matter by appointing its own Medical Doctor or any other expert witness who has

knowledge on Carbon Monoxide Gas Poisoning. He never gave either party an opportunity to ask for an expert witness to confirm Brian's claims of Carbon Monoxide Gas Poisoning and Roberta Hill's claims of Carbon Monoxide Gas Poisoning.

This Judge also had given the maximum punishment under the guise of preventing Brian from conducting any repeat of the behavior of public nudity (note: *at nighttime in a hiking trail with a lot of trees on both sides*) from ever happening again. However since Brian had been released on bond since May 14, 2019, and had not exhibited any further behavior, and had not been reported as such before September 21, 2018. Brian hadn't been given any incident reports or complaints in regards to any allegation regarding indecent exposure while incarcerated. What had happened on September 21, 2018, was an unusual and remote incident. What the Government's witness Officer Robert Jones said about any other calls coming in regarding a "nude male" is considered hearsay because it does not prove that Brian D. Hill was nude at any other time than during the time of the alleged offense on September 21, 2018.

There are other issues that can be brought up as well, but Defendant rather those issues be argued on Appeal. However any willful abuses of discretion which is caused by bias, prejudice, and/or partiality towards a party deserves of recusal and should be disqualified from participating in a particular case where such bias, partiality, and prejudice is found.

ANALYSIS OF THE LAW GOVERNING DISQUALIFICATION

Section 455 provides in relevant part:

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be Questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding

28 U.S.C.A. § 455 (West 2006). "[A] judge must recuse [himself] if a reasonable, objective person, knowing all of the circumstances, would have questioned the judge's impartiality." United States v. Hartsel, 199 F.3d 812, 820 (6th Cir. 1999) (quoting Hughes v. United States, 899 F.2d 1495, 1501 (6th Cir. 1990)) (modifications in original).

It is clear that there is an inherit bias or partiality by the Hon. Judge Schroeder when he has ignored all evidence that was submitted in opposition to Supervised Release Violation ("SRV") charging Document #157, but only admitted and permitted the Government's evidence and made a ruling entirely favorable to the Government.

Ignoring evidence is not professional conduct of any judicial official. If evidence is not valid under the court rules or the Constitution, then it is rebuked in an order addressing such issue. If evidence is submitted and is valid, and is ignored and never addressed, then it creates a hole in a party's ability to defend against allegations by the other party. It creates a vacuum that sways justice in favor of one party over the other. If evidence is invalid, then it should be declared invalid and inadmissible. If evidence is valid, then the Judge should at least weigh in that

evidence to see if it proves the facts alleged by the party who presented such evidence.

To prove this, let Facts be submitted to a candid world.

The Hon. Judge Schroeder was entirely or almost entirely dependent upon the approval of Ramaswamy the counsel for the Government.

Government objected to Defendant's Notice of Interlocutory Appeal (Document #187) that was filed before the hearing, the Judge took the objections of the Government to heart and refused to defer the proceedings until after the Appeal mandate. The appeal was directly over the decision to reschedule the Final Revocation hearing because it was too early and did not permit resolving the issue of Trial De Novo to prove Defendant's actual innocence/legal innocence to his state charge that was relevant to the SRV case and hearing. That appeal should have caused a procedural continuance to a later date for good constitutional reasoning.

Then the Government was not in favor of the oral motion for continuance by Defendant's defense counsel at the time. So the Judge denied that too and was going to immediately arrest and imprison Brian if he had not spoken up when permitted to make a statement prior to the sentencing which would have conflicted with the Trial De Novo, state bond, and assert supremacy over Brian's constitutional right to procedural due process. It is an error of law to immediately revoke Supervised Release or Probation while an appeal for the state charge aka Trial De Novo is still ongoing because then the Judge can immediately arrest, detain, and imprison the Defendant making it almost impossible or easy to impede the due process of a Probationer involved in an ongoing appeal and case of Trial

De Novo. It interferes with the state bond conditions and interferes with the state court process and makes a final decision over the state court process as if the state has no power when charging a criminal defendant to determine whether a crime was committed or whether the defendant was actually innocent under statute, constitution, or case law. The Hon. Judge Schroeder had ordered the Defendant to turn himself into a Federal Prison Institution or U.S. Marshals Service on December 6, 2019. This interferes with the state's constitutional due process of determining whether Brian is legally guilty or even legally innocent of his original charge. So if the jury decides, out how emotion, that Brian is guilty, Brian is deprived in his state case from being able to appeal the decision to a three-judge Circuit Court bench trial to determine whether or not Brian is legally innocent of indecent exposure for not being obscene (sexual). It drags out the state case for possibly more months or even years. It violates Defendant's right to a speedy trial. As long as the Defendant is released on bond and following all bond conditions as ordered by the Court (Document #176, and #176-3) without violation, he should be permitted under the Constitution and all of due process and under the right to a speedy trial, to be allowed to dispose of the charge after all appeals timely filed have been exhausted before the Final Revocation hearing to ensure that all due process rights have been preserved instead of deprived.

Another interesting proof of bias and prejudice, was that during the revocation hearing of June 30, 2015 (Document #123, Transcript), the Hon. Judge Schroeder had been on the side of U.S. Probation Officer Kristy L. Burton and her three caught perjury statements while testifying on the stand (Document #137, Document #144, and Document #145). That perjury by Kristy L. Burton is a fraud upon the court and should have been subject to extreme scrutiny for endangering the integrity and honesty of the Federal Judicial System by lying on the stand, and

getting away with it without being prosecuted. The Hon. Judge Schroeder never punished Kristy L. Burton for her perjury and had even instructed Brian's family to be respectful to Brian's Probation Officer. However even though Brian and his family have been respectful to Probation Officer Jason McMurray, Judge Schroeder had treated Jason differently and didn't endorse him the same way he had endorsed Kristy Burton the liar. So the Hon. Judge Schroeder is okay with people lying on the stand if it is in favor of the Government and against the Defendant, but when a Probation Officer testifies in favor of the Defense then Schroeder changes attitude and ignores the Probation Officer Jason McMurray and doesn't consider what he says in calculating Brian's imprisonment, and even makes the Probation Officer's life more difficult as the hard work of supervising Brian is thrown down the toilet by extending Brian's Supervised Release beyond 2024. The Hon. Judge Schroeder made his Probation Officer's life more difficult which is an attack on the Probation Office in favor of the U.S. Attorney. If that isn't also considered evidence of an inherit bias or prejudice or partiality towards the Defendant, than I don't know what is.

The Hon. Judge Schroeder rather make an error of law and overrule Defendant on every Government's objection or almost every Government's objection may show an inherit bias against the Defendant in favor of the Government. The job of a Judge is to resolve the disputes/conflicts between the parties, like a referee in a football game. It is not the job of a Judge to always rule in favor of one party or one football team over the other. That would make the average American person believe that the Federal Courts are rigged in favor of one party and do not represent the facts and the truth.

Maximum imprisonment was recommended by a specialist in the U.S. Probation Office in Greensboro (not Roanoke) who had never supervised Brian, does not

know Brian's story and does not fully know the circumstances of what had happened, and the recommendation was not by Brian's supervising Probation Officer Jason McMurray. The violation was of a technical nature and if actual legal innocence is the issue then attempting to revoke the Supervised Release of a Probationer who may be legally innocent of a new criminal charge may be in violation of the U.S. Constitution's Eighth Amendment as "cruel and unusual punishment" being inflicted because punishment is being inflicted on the actually innocent which is a miscarriage of justice. The Hon. Judge Schroeder recommended the maximum prison sentence and did not take anything into account in Defendant's favor, that itself is biased, partial, and/or prejudiced on its face. It is dangerous to a Constitutional Republic and makes it impossible for Defendant to file anything or ask for any hearings because they will likely all be in favor of the Government always. With such a Judge over all actions in this case, Defendant does not stand a chance at winning his 2255 Motion or any Motions, any bond hearings, or anything for that matter unless the Government gives mercy to Brian when the Government doesn't have to show mercy or compassion. The Hon. Judge Schroeder did not take Brian's good behavior into account, did not take Brian's following of the probation conditions (with one minor infraction under Document #124 but a 2255 Motion had been filed under penalty of perjury alleging actual innocence, so that infraction should not count since forcing a Defendant to accept responsibility would conflict with the affidavit of Brian's claimed actual innocence) since 2015. USPO Jason McMurray was being treated respectfully by Brian, Brian did attend the Sex Offender Treatment provider and did not lie to them. Brian told the Treatment Provider that he was working on proving his actual innocence which is his constitutional right under Writ of Habeas Corpus. Other than that small infraction for simply telling the truth, Brian had been complying with his conditions without issue for three years (*compliance is more*

than three years when excluding the infraction, and Brian's compliance prior to the first violation alleged by Kristy L. Burton, Brian's compliance after being released on home detention) and his Probation Officer had not run into any issues which would have caused intervention from the Court until that incident on September 21, 2018. All of the good time that USPO McMurray has supervised Brian was not counted, Brian's good behavior was not counted, the carbon monoxide evidence was not counted, Brian's interlocutory appeal was ignored and was filed after the hearing (to trick the Fourth Circuit U.S. Court of Appeals into believing that appeal was not filed before the hearing on record), and the testimony of the only two witnesses presented by Defendant's counsel was not counted. His bond conditions had required Brian to attend mental health counseling and medication to help manage his symptoms which would help keep his anxiety in check which would prevent Brian from going insane from all of the stress and anxiety coming from this case. Brian had been compliant with Piedmont Community Services condition of his bond, and all conditions of his bond including a strict curfew. That should have also been taken into consideration, but it wasn't by the Hon. Judge Schroeder. The only thing he had considered was jail credit, to make it appear that he was being reasonable and compliant with proper sentencing procedures.

There was also a weird issue that went on with Document #180 which attorney Renorda Pryor had also been a witness to. That document shall be attached to this motion as a true and correct copy of a Document that was filed under #180 that had a premeditated order from the Hon. Judge Schroeder condemning Brian to 10 months of imprisonment but did not extend his Supervised Release term.

This came from the court issued Document filed June 26, 2019, before it was modified and replaced with a new document:

“JUDGMENT AND COMMITMENT”
“Supervised Release Violation Hearing”

“On August 9, 2019, a hearing was held on a charge that the Defendant had violated the terms and conditions of supervised release as set forth in the Court’s Order filed July 24, 2015 and the Judgment filed November 12, 2014 in the above-entitled case, copies of which are attached hereto and incorporated by reference into this Judgment and Commitment.”

“The Defendant was represented by Renorda E. Pryor, Attorney.”

“The Defendant was found to have violated the terms and conditions of his supervised release. The violation(s) as follow were willful and without lawful excuse.”

“Violation 1. On September 21, 2018, the Defendant was arrested for the commission of a crime.”

“IT IS ORDERED that the Defendant’s supervised release be revoked. The Court has considered the U.S. Sentencing Guidelines and the policy statements, which are advisory, and the Court has considered the applicable factors of 18 U.S.C. §§ 3553(a) and 3583(e).”

“IT IS ORDERED that the Defendant be committed to the custody of the Bureau of Prisons for imprisonment for a period of ten (10) months.”

“IT IS FURTHER ORDERED that no additional term of supervision be imposed as to this Defendant.”

"IT IS RECOMMENDED that the Defendant be permitted to participate in any available drug treatment program and be designated to a facility as close as possible to his home in North Carolina."

"The Defendant is remanded to the custody of the United States Marshal."

-- End of information copied from alleged premeditated order from the Hon. Judge Schroeder. --

Attorney Renorda Pryor had assumed that it was some kind of mistake or error, but Defendant had suspected that the Judge wanted Brian to be given the maximum imprisonment since his family had shown him this document. Defendant had suspected that the Judge had originally wanted Brian imprisoned before the hearing was to have begun, and that is a premeditated order that asserts a personal belief of guilt before a hearing has even begun. Personal bias or belief outside of the facts.

If this document was incorrectly filed, then it revealed what the Judge had wanted for Brian months prior to the Final Revocation hearing, or that document was leaked by a court employee, whistleblower or insider of Judge Schroeder's chamber who had decided to take a risk to leak the document to PACER to warn Brian or his family that they were coming for him and coming to imprison him before the hearing was even scheduled to begin. If this order was premeditated, then the Hon. Judge Schroeder was not going to listen to any evidence or witnesses but only to incarcerate and punish Brian for whatever personal reason or belief he so desires. That itself is delusional/conclusory thinking and warrants an investigation into this judge for non-compos mentis. When a fixed belief exists that Brian had violated the conditions of supervision based on a technical violation of state law when the matter of his legal innocence has not been resolved, and such

belief that he deserves maximum punishment no matter what evidence or witnesses is offered, it is delusional and is irresponsible to the facts and truth in this case.

Defendant asks that the Hon. Judge Schroeder voluntarily recuse himself entirely from the criminal case of Brian David Hill, the 2255 Motion case of Brian David Hill, and any other cases or actions that concern Brian David Hill. Defendant requests that the Judge recuse himself from this case and disqualify himself from this case.

WHEREFORE, Brian prays for relief that the Judge recuse himself from this criminal case and the Habeas Corpus civil case concerning his 2255 Motion.

WHEREFORE, Brian prays that a new Judge is assigned to this case, one that is not in conflict of interest and is impartial. Since Judge Osteen had voluntarily recused himself from this case, another Judge from the bench is recommended for assignment of this case and any other case filed by Defendant or a case that the Defendant is named in such case.

WHEREFORE, Brian prays that he receives any other relief that the Court deems as necessary and proper.

Declaration of Brian David Hill on attached evidence

I, Brian David Hill, declare pursuant to Title 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. Attached hereto to this filing is a true and correct photocopy of the original Document #180, Filed 06/26/19, that is entitled as "JUDGMENT AND COMMITMENT" "Supervised Release Violation Hearing". It was filed in that document of the docket sheet until it was modified. "NOTICE OF HEARING as to BRIAN DAVID HILL. Final Hearing re Revocation of Supervised Release set for 8/9/2019 at 02:00 PM in Winston-Salem

Courtroom #2 before CHIEF JUDGE THOMAS D. SCHROEDER. (Engle, Anita) (Main Document 180 replaced on 6/27/2019) (Engle, Anita). (Entered: 06/26/2019)". So it was supposed to have been a NOTICE OF HEARING document but instead was a well drafted document concerning the Judgment and Commitment Order of Brian David Hill prior to the future hearing as if it was something that may have been planned/premeditated ahead of the planned revocation hearing. Total of 2 pages.

Total is 2 pages of attachment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 25, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Brian D. Hill (Pro Se)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112
Phone #: (276) 790-3505

U.S.W.G.O.

Former U.S.W.G.O. Alternative News reporter
I stand with QANON/Donald-Trump – Drain the Swamp
I ask Qanon and Donald John Trump for Assistance (S.O.S.)
Make America Great Again

Respectfully filed with the Court, this the 25th day of September, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Signed

Brian D. Hill (Pro Se)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112
Phone #: (276) 790-3505

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Petitioner also requests with the Court that a copy of this pleading be served upon the Government as stated in 28 U.S.C. § 1915(d), that “The officers of the court shall issue and serve all process, and preform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases”. Petitioner requests that copies be served with the U.S. Attorney office of Greensboro, NC via CM/ECF Notice of Electronic Filing (“NEF”) email, by facsimile if the Government consents, or upon U.S. Mail.

Thank You!

CERTIFICATE OF SERVICE

Petitioner hereby certifies that on September 25, 2019, service was made by mailing the original of the foregoing:

**"MOTION TO DISQUALIFY JUDGE -- MOTION AND BRIEF /
MEMORANDUM OF LAW REQUESTING THE HONORABLE THOMAS D.
SCHROEDER RECUSE HIMSELF FROM ANY FURTHER ACTIONS AND
PROCEEDINGS IN THIS CASE"**

by deposit in the United States Post Office, in an envelope (certified mail), Postage prepaid, on September 25, 2019 addressed to the Clerk of the Court in the U.S. District Court, for the Middle District of North Carolina, 324 West Market Street, Greensboro, NC 27401.

Then pursuant to 28 U.S.C. §1915(d), Petitioner requests that the Clerk of the Court move to electronically file the foregoing using the CMIECF system which will send notification of such filing to the following parties to be served in this action:

Anand Prakash Ramaswamy U.S. Attorney Office Civil Case # 1:17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 Anand.Ramaswamy@usdoj.gov	Angela Hewlett Miller U.S. Attorney Office Civil Case # 1: 17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 angela.miller@usdoj.gov
JOHN M. ALSUP U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 john.alsup@usdoj.gov	

This is pursuant to Petitioner's "In forma Pauperis" ("IFP") status, 28 U.S.C. §1915(d) that "The officers of the court shall issue and serve all process, and perform all duties in such cases ... "the Clerk shall serve process via CM/ECF to serve process with all parties.

Date of signing: <u>September 24, 2019</u>	Respectfully submitted, <u>Brian D. Hill</u> <u>Signed</u> Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1 Martinsville, Virginia 24112 Phone #: (276) 790-3505 U.S.W.G.O. I stand with QANON/Donald-Trump – Drain the Swamp I ask Qanon and Donald John Trump for Assistance (S.O.S.) Make America Great Again
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I ask Department of Defense (“DOD”) military Constitutional oath keepers, alliance, Qanon for help in protecting me from corruption and criminal behavior of Government.

Certified Mail tracking no: 7017-2680-0000-5750-9153

*Qanon, Any good
Government left, please
investigate, help me!!!*

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINAUNITED STATES OF AMERICA)
)
 v.) 1:13CR435-1
)
 BRIAN DAVID HILL)**JUDGMENT AND COMMITMENT**
Supervised Release Violation Hearing

On August 9, 2019, a hearing was held on a charge that the Defendant had violated the terms and conditions of supervised release as set forth in the Court's Order filed July 24, 2015 and the Judgment filed November 12, 2014 in the above-entitled case, copies of which are attached hereto and incorporated by reference into this Judgment and Commitment.

The Defendant was represented by Renorda E. Pryor, Attorney.

The Defendant was found to have violated the terms and conditions of his supervised release. The violation(s) as follow were willful and without lawful excuse.

Violation 1. On September 21, 2018, the Defendant was arrested for the commission of a crime.

IT IS ORDERED that the Defendant's supervised release be revoked. The Court has considered the U.S. Sentencing Guidelines and the policy statements, which are advisory, and the Court has considered the applicable factors of 18 U.S.C. §§ 3553(a) and 3583(e).

IT IS ORDERED that the Defendant be committed to the custody

of the Bureau of Prisons for imprisonment for a period of ten (10) months.

IT IS FURTHER ORDERED that no additional term of supervision be imposed as to this Defendant.

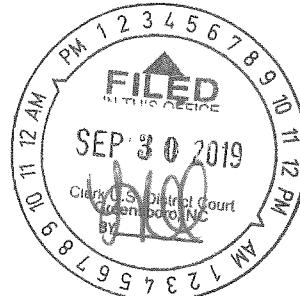
IT IS RECOMMENDED that the Defendant be permitted to participate in any available drug treatment program and be designated to a facility as close as possible to his home in North Carolina.

The Defendant is remanded to the custody of the United States Marshal.

United States District Judge

_____, 2019.

In the United States District Court
For the Middle District of North Carolina



Brian David Hill,)
Petitioner/Defendant)
v.) Criminal Action No. 1:13-CR-435-1
United States of America,)
Respondent/Plaintiff) Civil Action No. 1:17-CV-1036
)
)
)

MOTION TO DISQUALIFY JUDGE

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Pursuant to Title 28 U.S. Code § 455 “Disqualification of justice, judge, or magistrate judge”, the Defendant Brian David Hill (“Brian D. Hill”, “Hill”, “Brian”, “Defendant”), proceeding Pro Se in this action, respectfully requests that the Honorable U.S. District Court Chief Judge Thomas D. Schroeder (“Hon. Judge Schroeder”) recuse himself from any further actions and proceedings in this case in the United States District Court for the Middle District of North Carolina.

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Brian had noticed at the Final Revocation hearing dated September 12, 2019, that the Hon. Thomas D. Schroeder had exhibited extreme bias and prejudice towards

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03/28/2019 #172 DECLARATION entitled "Declaration of Brian David Hill in opposition to charge under documents 156 , 157 , and 158 " filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Garland, Leah) (Entered: 03/28/2019)

04/11/2019 #173 DECLARATION entitled "Declaration of Brian David Hill in Opposition to Government's Documents 156 , 157 , and 158 " filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Garland, Leah) (Entered: 04/11/2019)

05/03/2019 #174 DECLARATION of BRIAN DAVID HILL entitled "Declaration of Brian David Hill in Opposition to Government's charging documents # 156 , # 157 , and # 158 " filed by BRIAN DAVID HILL. (Attachments: # 1 Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah) (Entered: 05/03/2019)

The transcripts still have not yet been furnished by the Court Reporter of that hearing, but Assistant United States Attorney Anand Prakash Ramaswamy ("Ramaswamy") had made a verbal claim at that Final Revocation Hearing that the claimed Carbon Monoxide research was found on Wikipedia on the internet in an attempt to discredit both Roberta Hill (the witness) and Brian David Hill (the Defendant). Exhibit 3 under Document #181-4, was material that was researched by family and was cited from the National Institute of Health, a federal government organization of the United States. If you had noticed the little text in

that exhibit, it says “...ncbi.nlm.nih.gov...” which is a federal government domain name. It also cites reliable sources such as “*Kent Olson, MD, FACEP, FACMT, FACCT, Medical Director and Clinical Professor of Medicine & Pharmacy# and Craig Smollin, MD, Assistant Medical Director and Clinical Professor of Medicine*”. That was not from “Wikipedia” as Ramaswamy had claimed at the SRV revocation hearing. The Judge would have had access to that document (Document #181-4) and didn’t care to correct Ramaswamy on the fact that none of the research materials presented in Document #181 and attachments were from this alleged “Wikipedia”. That was a lie/falsehood by Ramaswamy and the judge knew that was a lie but he had decided to defend or protect Ramaswamy and ignore the testimony of both Roberta Hill and United States Probation Officer Jason McMurray (“McMurray”) to give Defendant the maximum punishment for this revocation. Exhibit 6 from Document #181-7 was sourced from the Centers for Disease Control (“CDC”) which is also a well-respected federal government agency that deals with public health and safety. So Ramaswamy was attempting to demean these federal agencies as calling them collectively, “Wikipedia” type of source when he had questioned witness Roberta Hill on the stand in an attempt to discredit Brian David Hill’s claims and Roberta Hill to make them out to be either incompetent, not credible, or liars.

Federal Rules of Evidence, Rule 706(a) "Court-Appointed Expert Witnesses" it states that Rule 706 allows a court to appoint an expert witness either “on its own motion or on the motion of any party.” The Hon. Judge Schroeder also had decided to dismiss any such notion of Carbon Monoxide to being any such cause for the Defendant’s unusual and abnormal behavior on September 21, 2018, and stated on record that Roberta Hill is not an expert witness but refused to resolve the matter by appointing its own Medical Doctor or any other expert witness who has

knowledge on Carbon Monoxide Gas Poisoning. He never gave either party an opportunity to ask for an expert witness to confirm Brian's claims of Carbon Monoxide Gas Poisoning and Roberta Hill's claims of Carbon Monoxide Gas Poisoning.

This Judge also had given the maximum punishment under the guise of preventing Brian from conducting any repeat of the behavior of public nudity (note: *at nighttime in a hiking trail with a lot of trees on both sides*) from ever happening again. However since Brian had been released on bond since May 14, 2019, and had not exhibited any further behavior, and had not been reported as such before September 21, 2018. Brian hadn't been given any incident reports or complaints in regards to any allegation regarding indecent exposure while incarcerated. What had happened on September 21, 2018, was an unusual and remote incident. What the Government's witness Officer Robert Jones said about any other calls coming in regarding a "nude male" is considered hearsay because it does not prove that Brian D. Hill was nude at any other time than during the time of the alleged offense on September 21, 2018.

There are other issues that can be brought up as well, but Defendant rather those issues be argued on Appeal. However any willful abuses of discretion which is caused by bias, prejudice, and/or partiality towards a party deserves of recusal and should be disqualified from participating in a particular case where such bias, partiality, and prejudice is found.

ANALYSIS OF THE LAW GOVERNING DISQUALIFICATION

Section 455 provides in relevant part:

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be Questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding

28 U.S.C.A. § 455 (West 2006). "[A] judge must recuse [himself] if a reasonable, objective person, knowing all of the circumstances, would have questioned the judge's impartiality." United States v. Hartsel, 199 F.3d 812, 820 (6th Cir. 1999) (quoting Hughes v. United States, 899 F.2d 1495, 1501 (6th Cir. 1990)) (modifications in original).

It is clear that there is an inherit bias or partiality by the Hon. Judge Schroeder when he has ignored all evidence that was submitted in opposition to Supervised Release Violation ("SRV") charging Document #157, but only admitted and permitted the Government's evidence and made a ruling entirely favorable to the Government.

Ignoring evidence is not professional conduct of any judicial official. If evidence is not valid under the court rules or the Constitution, then it is rebuked in an order addressing such issue. If evidence is submitted and is valid, and is ignored and never addressed, then it creates a hole in a party's ability to defend against allegations by the other party. It creates a vacuum that sways justice in favor of one party over the other. If evidence is invalid, then it should be declared invalid and inadmissible. If evidence is valid, then the Judge should at least weigh in that

evidence to see if it proves the facts alleged by the party who presented such evidence.

To prove this, let Facts be submitted to a candid world.

The Hon. Judge Schroeder was entirely or almost entirely dependent upon the approval of Ramaswamy the counsel for the Government.

Government objected to Defendant's Notice of Interlocutory Appeal (Document #187) that was filed before the hearing, the Judge took the objections of the Government to heart and refused to defer the proceedings until after the Appeal mandate. The appeal was directly over the decision to reschedule the Final Revocation hearing because it was too early and did not permit resolving the issue of Trial De Novo to prove Defendant's actual innocence/legal innocence to his state charge that was relevant to the SRV case and hearing. That appeal should have caused a procedural continuance to a later date for good constitutional reasoning.

Then the Government was not in favor of the oral motion for continuance by Defendant's defense counsel at the time. So the Judge denied that too and was going to immediately arrest and imprison Brian if he had not spoken up when permitted to make a statement prior to the sentencing which would have conflicted with the Trial De Novo, state bond, and assert supremacy over Brian's constitutional right to procedural due process. It is an error of law to immediately revoke Supervised Release or Probation while an appeal for the state charge aka Trial De Novo is still ongoing because then the Judge can immediately arrest, detain, and imprison the Defendant making it almost impossible or easy to impede the due process of a Probationer involved in an ongoing appeal and case of Trial

De Novo. It interferes with the state bond conditions and interferes with the state court process and makes a final decision over the state court process as if the state has no power when charging a criminal defendant to determine whether a crime was committed or whether the defendant was actually innocent under statute, constitution, or case law. The Hon. Judge Schroeder had ordered the Defendant to turn himself into a Federal Prison Institution or U.S. Marshals Service on December 6, 2019. This interferes with the state's constitutional due process of determining whether Brian is legally guilty or even legally innocent of his original charge. So if the jury decides, out how emotion, that Brian is guilty, Brian is deprived in his state case from being able to appeal the decision to a three-judge Circuit Court bench trial to determine whether or not Brian is legally innocent of indecent exposure for not being obscene (sexual). It drags out the state case for possibly more months or even years. It violates Defendant's right to a speedy trial. As long as the Defendant is released on bond and following all bond conditions as ordered by the Court (Document #176, and #176-3) without violation, he should be permitted under the Constitution and all of due process and under the right to a speedy trial, to be allowed to dispose of the charge after all appeals timely filed have been exhausted before the Final Revocation hearing to ensure that all due process rights have been preserved instead of deprived.

Another interesting proof of bias and prejudice, was that during the revocation hearing of June 30, 2015 (Document #123, Transcript), the Hon. Judge Schroeder had been on the side of U.S. Probation Officer Kristy L. Burton and her three caught perjury statements while testifying on the stand (Document #137, Document #144, and Document #145). That perjury by Kristy L. Burton is a fraud upon the court and should have been subject to extreme scrutiny for endangering the integrity and honesty of the Federal Judicial System by lying on the stand, and

getting away with it without being prosecuted. The Hon. Judge Schroeder never punished Kristy L. Burton for her perjury and had even instructed Brian's family to be respectful to Brian's Probation Officer. However even though Brian and his family have been respectful to Probation Officer Jason McMurray, Judge Schroeder had treated Jason differently and didn't endorse him the same way he had endorsed Kristy Burton the liar. So the Hon. Judge Schroeder is okay with people lying on the stand if it is in favor of the Government and against the Defendant, but when a Probation Officer testifies in favor of the Defense then Schroeder changes attitude and ignores the Probation Officer Jason McMurray and doesn't consider what he says in calculating Brian's imprisonment, and even makes the Probation Officer's life more difficult as the hard work of supervising Brian is thrown down the toilet by extending Brian's Supervised Release beyond 2024. The Hon. Judge Schroeder made his Probation Officer's life more difficult which is an attack on the Probation Office in favor of the U.S. Attorney. If that isn't also considered evidence of an inherit bias or prejudice or partiality towards the Defendant, than I don't know what is.

The Hon. Judge Schroeder rather make an error of law and overrule Defendant on every Government's objection or almost every Government's objection may show an inherit bias against the Defendant in favor of the Government. The job of a Judge is to resolve the disputes/conflicts between the parties, like a referee in a football game. It is not the job of a Judge to always rule in favor of one party or one football team over the other. That would make the average American person believe that the Federal Courts are rigged in favor of one party and do not represent the facts and the truth.

Maximum imprisonment was recommended by a specialist in the U.S. Probation Office in Greensboro (not Roanoke) who had never supervised Brian, does not

know Brian's story and does not fully know the circumstances of what had happened, and the recommendation was not by Brian's supervising Probation Officer Jason McMurray. The violation was of a technical nature and if actual legal innocence is the issue then attempting to revoke the Supervised Release of a Probationer who may be legally innocent of a new criminal charge may be in violation of the U.S. Constitution's Eighth Amendment as "cruel and unusual punishment" being inflicted because punishment is being inflicted on the actually innocent which is a miscarriage of justice. The Hon. Judge Schroeder recommended the maximum prison sentence and did not take anything into account in Defendant's favor, that itself is biased, partial, and/or prejudiced on its face. It is dangerous to a Constitutional Republic and makes it impossible for Defendant to file anything or ask for any hearings because they will likely all be in favor of the Government always. With such a Judge over all actions in this case, Defendant does not stand a chance at winning his 2255 Motion or any Motions, any bond hearings, or anything for that matter unless the Government gives mercy to Brian when the Government doesn't have to show mercy or compassion. The Hon. Judge Schroeder did not take Brian's good behavior into account, did not take Brian's following of the probation conditions (with one minor infraction under Document #124 but a 2255 Motion had been filed under penalty of perjury alleging actual innocence, so that infraction should not count since forcing a Defendant to accept responsibility would conflict with the affidavit of Brian's claimed actual innocence) since 2015. USPO Jason McMurray was being treated respectfully by Brian, Brian did attend the Sex Offender Treatment provider and did not lie to them. Brian told the Treatment Provider that he was working on proving his actual innocence which is his constitutional right under Writ of Habeas Corpus. Other than that small infraction for simply telling the truth, Brian had been complying with his conditions without issue for three years (*compliance is more*

than three years when excluding the infraction, and Brian's compliance prior to the first violation alleged by Kristy L. Burton, Brian's compliance after being released on home detention) and his Probation Officer had not run into any issues which would have caused intervention from the Court until that incident on September 21, 2018. All of the good time that USPO McMurray has supervised Brian was not counted, Brian's good behavior was not counted, the carbon monoxide evidence was not counted, Brian's interlocutory appeal was ignored and was filed after the hearing (to trick the Fourth Circuit U.S. Court of Appeals into believing that appeal was not filed before the hearing on record), and the testimony of the only two witnesses presented by Defendant's counsel was not counted. His bond conditions had required Brian to attend mental health counseling and medication to help manage his symptoms which would help keep his anxiety in check which would prevent Brian from going insane from all of the stress and anxiety coming from this case. Brian had been compliant with Piedmont Community Services condition of his bond, and all conditions of his bond including a strict curfew. That should have also been taken into consideration, but it wasn't by the Hon. Judge Schroeder. The only thing he had considered was jail credit, to make it appear that he was being reasonable and compliant with proper sentencing procedures.

There was also a weird issue that went on with Document #180 which attorney Renorda Pryor had also been a witness to. That document shall be attached to this motion as a true and correct copy of a Document that was filed under #180 that had a premeditated order from the Hon. Judge Schroeder condemning Brian to 10 months of imprisonment but did not extend his Supervised Release term.

This came from the court issued Document filed June 26, 2019, before it was modified and replaced with a new document:

“JUDGMENT AND COMMITMENT”
“Supervised Release Violation Hearing”

“On August 9, 2019, a hearing was held on a charge that the Defendant had violated the terms and conditions of supervised release as set forth in the Court’s Order filed July 24, 2015 and the Judgment filed November 12, 2014 in the above-entitled case, copies of which are attached hereto and incorporated by reference into this Judgment and Commitment.”

“The Defendant was represented by Renorda E. Pryor, Attorney.”

“The Defendant was found to have violated the terms and conditions of his supervised release. The violation(s) as follow were willful and without lawful excuse.”

“Violation 1. On September 21, 2018, the Defendant was arrested for the commission of a crime.”

“IT IS ORDERED that the Defendant’s supervised release be revoked. The Court has considered the U.S. Sentencing Guidelines and the policy statements, which are advisory, and the Court has considered the applicable factors of 18 U.S.C. §§ 3553(a) and 3583(e).”

“IT IS ORDERED that the Defendant be committed to the custody of the Bureau of Prisons for imprisonment for a period of ten (10) months.”

“IT IS FURTHER ORDERED that no additional term of supervision be imposed as to this Defendant.”

"IT IS RECOMMENDED that the Defendant be permitted to participate in any available drug treatment program and be designated to a facility as close as possible to his home in North Carolina."

"The Defendant is remanded to the custody of the United States Marshal."

-- End of information copied from alleged premeditated order from the Hon. Judge Schroeder. --

Attorney Renorda Pryor had assumed that it was some kind of mistake or error, but Defendant had suspected that the Judge wanted Brian to be given the maximum imprisonment since his family had shown him this document. Defendant had suspected that the Judge had originally wanted Brian imprisoned before the hearing was to have begun, and that is a premeditated order that asserts a personal belief of guilt before a hearing has even begun. Personal bias or belief outside of the facts.

If this document was incorrectly filed, then it revealed what the Judge had wanted for Brian months prior to the Final Revocation hearing, or that document was leaked by a court employee, whistleblower or insider of Judge Schroeder's chamber who had decided to take a risk to leak the document to PACER to warn Brian or his family that they were coming for him and coming to imprison him before the hearing was even scheduled to begin. If this order was premeditated, then the Hon. Judge Schroeder was not going to listen to any evidence or witnesses but only to incarcerate and punish Brian for whatever personal reason or belief he so desires. That itself is delusional/conclusory thinking and warrants an investigation into this judge for non-compos mentis. When a fixed belief exists that Brian had violated the conditions of supervision based on a technical violation of state law when the matter of his legal innocence has not been resolved, and such

belief that he deserves maximum punishment no matter what evidence or witnesses is offered, it is delusional and is irresponsible to the facts and truth in this case.

Defendant asks that the Hon. Judge Schroeder voluntarily recuse himself entirely from the criminal case of Brian David Hill, the 2255 Motion case of Brian David Hill, and any other cases or actions that concern Brian David Hill. Defendant requests that the Judge recuse himself from this case and disqualify himself from this case.

WHEREFORE, Brian prays for relief that the Judge recuse himself from this criminal case and the Habeas Corpus civil case concerning his 2255 Motion.

WHEREFORE, Brian prays that a new Judge is assigned to this case, one that is not in conflict of interest and is impartial. Since Judge Osteen had voluntarily recused himself from this case, another Judge from the bench is recommended for assignment of this case and any other case filed by Defendant or a case that the Defendant is named in such case.

WHEREFORE, Brian prays that he receives any other relief that the Court deems as necessary and proper.

Declaration of Brian David Hill on attached evidence

I, Brian David Hill, declare pursuant to Title 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. Attached hereto to this filing is a true and correct photocopy of the original Document #180, Filed 06/26/19, that is entitled as “JUDGMENT AND COMMITMENT” “Supervised Release Violation Hearing”. It was filed in that document of the docket sheet until it was modified. “NOTICE OF HEARING as to BRIAN DAVID HILL. Final Hearing re Revocation of Supervised Release set for 8/9/2019 at 02:00 PM in Winston-Salem

Courtroom #2 before CHIEF JUDGE THOMAS D. SCHROEDER. (Engle, Anita) (Main Document 180 replaced on 6/27/2019) (Engle, Anita). (Entered: 06/26/2019)". So it was supposed to have been a NOTICE OF HEARING document but instead was a well drafted document concerning the Judgment and Commitment Order of Brian David Hill prior to the future hearing as if it was something that may have been planned/premeditated ahead of the planned revocation hearing. Total of 2 pages.

Total is 2 pages of attachment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 25, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Signed

Brian D. Hill (Pro Se)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Phone #: (276) 790-3505

U.S.W.G.O.

Former U.S.W.G.O. Alternative News reporter

I stand with QANON/Donald-Trump – Drain the Swamp
I ask Qanon and Donald John Trump for Assistance (S.O.S.)
Make America Great Again

Respectfully filed with the Court, this the 25th day of September, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Signed

Brian D. Hill (Pro Se)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112
Phone #: (276) 790-3505



Former U.S.W.G.O. Alternative News reporter
I stand with QANON/Donald-Trump – Drain the Swamp
I ask Qanon and Donald John Trump for Assistance (S.O.S.)
Make America Great Again

Petitioner also requests with the Court that a copy of this pleading be served upon the Government as stated in 28 U.S.C. § 1915(d), that "The officers of the court shall issue and serve all process, and preform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases". Petitioner requests that copies be served with the U.S. Attorney office of Greensboro, NC via CM/ECF Notice of Electronic Filing ("NEF") email, by facsimile if the Government consents, or upon U.S. Mail.

Thank You!

CERTIFICATE OF SERVICE

Petitioner hereby certifies that on September 25, 2019, service was made by mailing the original of the foregoing:

**"MOTION TO DISQUALIFY JUDGE -- MOTION AND BRIEF /
MEMORANDUM OF LAW REQUESTING THE HONORABLE THOMAS D.
SCHROEDER RECUSE HIMSELF FROM ANY FURTHER ACTIONS AND
PROCEEDINGS IN THIS CASE"**

by deposit in the United States Post Office, in an envelope (certified mail), Postage prepaid, on September 25, 2019 addressed to the Clerk of the Court in the U.S. District Court, for the Middle District of North Carolina, 324 West Market Street, Greensboro, NC 27401.

Then pursuant to 28 U.S.C. §1915(d), Petitioner requests that the Clerk of the Court move to electronically file the foregoing using the CMIECF system which will send notification of such filing to the following parties to be served in this action:

Anand Prakash Ramaswamy U.S. Attorney Office Civil Case # 1:17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 Anand.Ramaswamy@usdoj.gov	Angela Hewlett Miller U.S. Attorney Office Civil Case # 1: 17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 angela.miller@usdoj.gov
JOHN M. ALSUP U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 john.alsup@usdoj.gov	

This is pursuant to Petitioner's "In forma Pauperis" ("IFP") status, 28 U.S.C. §1915(d) that "The officers of the court shall issue and serve all process, and perform all duties in such cases ... "the Clerk shall serve process via CM/ECF to serve process with all parties.

Date of signing: <u>September 24, 2019</u>	Respectfully submitted, <u>Brian D. Hill</u> <u>Signed</u> Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1 Martinsville, Virginia 24112 Phone #: (276) 790-3505 U.S.W.G.O. I stand with QANON/Donald-Trump – Drain the Swamp I ask Qanon and Donald John Trump for Assistance (S.O.S.) Make America Great Again
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I ask Department of Defense (“DOD”) military Constitutional oath keepers, alliance, Qanon for help in protecting me from corruption and criminal behavior of Government.

Certified Mail tracking no: 7017-2680-0000-5750-9153

*Qanon, Any good
Government left, please
investigate, help me!!!*

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINAUNITED STATES OF AMERICA)
)
 v.) 1:13CR435-1
)
 BRIAN DAVID HILL)**JUDGMENT AND COMMITMENT**
Supervised Release Violation Hearing

On August 9, 2019, a hearing was held on a charge that the Defendant had violated the terms and conditions of supervised release as set forth in the Court's Order filed July 24, 2015 and the Judgment filed November 12, 2014 in the above-entitled case, copies of which are attached hereto and incorporated by reference into this Judgment and Commitment.

The Defendant was represented by Renorda E. Pryor, Attorney.

The Defendant was found to have violated the terms and conditions of his supervised release. The violation(s) as follow were willful and without lawful excuse.

Violation 1. On September 21, 2018, the Defendant was arrested for the commission of a crime.

IT IS ORDERED that the Defendant's supervised release be revoked. The Court has considered the U.S. Sentencing Guidelines and the policy statements, which are advisory, and the Court has considered the applicable factors of 18 U.S.C. §§ 3553(a) and 3583(e).

IT IS ORDERED that the Defendant be committed to the custody

of the Bureau of Prisons for imprisonment for a period of ten (10) months.

IT IS FURTHER ORDERED that no additional term of supervision be imposed as to this Defendant.

IT IS RECOMMENDED that the Defendant be permitted to participate in any available drug treatment program and be designated to a facility as close as possible to his home in North Carolina.

The Defendant is remanded to the custody of the United States Marshal.

United States District Judge

_____, 2019.

Joint Appendix 2

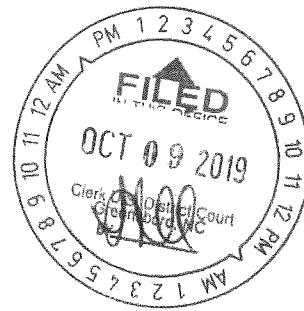
USWGO
QANON // DRAIN THE SWAMP
MAKE AMERICA GREAT AGAIN



UNITED STATES DISTRICT COURT CASE NO. 1:13-CR-435-1
MIDDLE DISTRICT OF NORTH CAROLINA
UNITED STATES COURT OF APPEALS
FOURTH CIRCUIT CASE NO. 19-7483

Joint Appendix in attachment to “INFORMAL BRIEF, No. 19-7483, US v. Brian Hill”
U.S. Court of Appeals for the Fourth Circuit

In the United States District Court
For the Middle District of North Carolina



Brian David Hill,)
Petitioner/Defendant) Criminal Action No. 1:13-CR-435-1
v.) Civil Action No. 1:17-CV-1036
United States of America,) Mandamus: 19-2077, 4th Circuit
Respondent/Plaintiff)
)
)

PETITIONER'S NOTICE OF APPEAL

NOW COMES the Petitioner, by and through Brian David Hill ("Brian D. Hill"), "Petitioner", or "Hill"), that is acting pro se in this action before this Honorable Court in the Middle District of North Carolina, and hereby respectfully moves to file this notice of appeal.

Notice is hereby given that Defendant/Petitioner Brian David Hill in the above named case hereby appeal to the United States Court of Appeals for the Fourth Circuit from an order entered in this action on October 4, 2019 (Document #198).

*See Fed. R. App. P. 3(c) for permissible ways of identifying appellants.

This NOTICE OF APPEAL concerns the abuse of discretion, ignoring the evidence, ignoring Brian's Probation officer Jason McMurray, ignoring the recommendation of the Western District of Virginia federal court that Brian David Hill be released on bond with curfew without requiring an ankle monitor, allowing frauds upon the court, and errors of the record by the Honorable U.S. District Court Chief Judge Thomas D. Schroeder.

Brian David Hill is illegally and unconstitutionally being ordered to turn himself into Federal Prison by December 6, 2019, and was done by the errors and usurpations of power by Judge Schroeder.

The Hon. Judge Schroeder is refusing to recuse himself from the case knowing that it is creating a conflict of interest and is allowing such prejudice and abuse to continue is not good for this case. Not good for the 2255 Civil case and not good for anything to do with this criminal case either. The Constitution and the law requires that a Judge be impartial and without prejudice and without bias, and for the Canons of Professional Conduct. It is also proper judicial conduct to follow the facts exactly and not making conclusory facts that cannot be proven on the record. It is also proper conduct to vacate any frauds upon the Court, even if such frauds were perpetuated by the Government.

THIS IS A CONSTITUTIONAL CRISIS.

ERRORS of the record:

Error of law #1:

Judge Schroeder; Page 1 of 8: "*The Defendant was convicted in state court in Virginia in 2018, and his federal revocation proceeding followed.*"

In the motion the Hon. Judge Thomas D. Schroeder denied under Document #192, evidence exhibit was filed from the record of the Martinsville, Virginia Circuit Court that his conviction in General District Court on December 21, 2018, was vacated due to appeal to the Circuit Court which that court had not convicted him yet due to the ongoing Trial De Novo. See Exhibit 4 — Document #193, Attachment #4 (Doc. #193-4). It is on record in Defendant's/Petitioner's Motion for Stay of Judgment pending Appeal that the "Circuit Court case was filed on 01/09/2019 and was commenced by General District Court Appeal". According to

attorney Scott Albrecht who had formerly worked for the Martinsville Public Defender office, once an appeal has been filed to the lowest municipal court also known as a police court, aka the General District Court which is not an Article III compliant constitutional state court and doesn't follow the usual constitutional obligations and is not a state court of record, then it is appealed to the Circuit Court for Trial De Novo which is to be tried in front of a Jury or Bench Trial by Judge in a state court of record. So Brian's conviction in the "police court" was no longer valid and was vacated after Brian's timely filed notice of appeal in the General District Court. It is on record during the hearing in the Western District of Virginia case no. 7:18-mj-00149, during the hearing on Dec 26, 2018 that Brian had timely filed his Notice of Appeal automatically vacating the conviction from General District Court, please review the Transcript from that case. Once the appeal has been filed in the municipal court, it is a fact and procedure of law that the conviction be treated as if it had never taken place and a new finding of guilty must be entered by the Circuit Court prior to a conviction being valid on the record or the Defendant/Petitioner would have to withdraw his appeal voluntarily to reinstate his conviction in General District Court.

So the Hon. Judge Schroeder is wrong on that factual claim, had erred, and cannot be substantiated. It shouldn't even have been entered in his opinion of his order.

Error of law #2:

Judge Schroeder; Page 7 of 8: "*Defendant reportedly hit his grandfather. (Doc. 123 at 22-23, 48.)*"

Actually it distorts what had entirely happened. USPO Kristy L. Burton had said that "*At that moment, everybody was very agitated and flurried, but I wasn't in there long enough for -- whatever had happened had occurred before I got to the home.*" Page 23 of 84.

It even said that the family did not call the police because the entire family was agitated and stressed (or flurried) which is the way families are from time to time. Families go through arguments. Nobody called the police so nobody felt that Brian David Hill was dangerous or aggressive enough to call law enforcement.

Renorda Pryor asked USPO Burton "*Q Okay. And while you were there in that environment, did they call the police? Was anyone hurt?*"

Her response was "*A As far as I know, they never called the police, no.*"

So it was a small family feud where everybody was agitated which happens in families across the country. To use that against Brian was simply wrong and was an error of fact and an abuse of discretion.

Even witness Kenneth Forinash had this to say about the incident: "*...and his reflex action was that he turned around and hit me. It didn't hurt. And a few minutes later, we all apologized and everything was okay.*" Page 53 of 84.

It doesn't sound as bad as the way it had sounded in the Hon. Judge Schroeder's order. That was back in 2015 and should not have been used against Brian David Hill as yet another reason to deny his motion for Stay of Judgment pending Appeal. It is normal for families and even married couples to have arguments and feuds in today's climate with the extreme stress and anxiety of modern American life with jobs and the stress of life. People handle these things in different ways. To use something this small and stupid, of a small family feud, as one of the basis of the decision to deny the Motion for Stay of Judgment pending Appeal is inappropriate and is an abuse of discretion.

Error of law #3:

Judge Schroeder, Page 7 of 8: "*The Defendant maintained that the child pornography was sent to his cell phone unsolicited and anonymously, which seems unlikely in so far as the cell phone is a prepaid phone belonging to his*

grandmother (Doc. 123 at 6, 35) and no one would likely have knowledge of the phone number.”

That is not true as the Defendant/Petitioner had broken no law, and that Defendant/Petitioner had never asked for the child pornography, there is no evidence of it, there is no mentioning of it in this entire case. The only thing that happened was that Brian David Hill had received threatening text messages before the child pornography had allegedly been reportedly sent to his grandmother's cell phone. Brian immediately thereafter, in good faith, reported the cell phone to his Probation Officer Kristy L. Burton who acknowledged that Brian had voluntarily reported the matter to her, a federal “law enforcement officer” or “agent”, and gave her the cell phone. That is an affirmative defense under federal law to any child pornography charge under the federal law. That was why Brian had not been charged for giving the phone to Kristy L. Burton because he is actually innocent of such allegation by turning over the so-called unsolicited such material to a law enforcement officer or agent in good faith. Brian maintains that he complied with the law, and did not do anything wrong to warrant that being used against him.

According to Attorney Susan Basko on the record of Document #46 in this case:

“The other purpose was to follow the provision in federal child porn law that gives an affirmative defense under this law:”

18 U.S. Code § 2252A - Certain activities relating to material constituting or containing child pornography

(d) Affirmative Defense. – It shall be an affirmative defense to a charge of violating

subsection (a)(§) that the defendant~

(1) possessed less than three images of child pornography; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof~

- (A) took reasonable steps to destroy each such image; or
- (B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

8. Shortly after Luke's situation, a group of indie journalists and activists contacted me and said they had porn sent to them in trick emails where the sender opened an email account in the name of someone the activist trusted. The delivery technique had advanced to placing the images inside a pdf, so they images could not be previewed.

These men have access to a computer forensics expert who previewed the pdf in a "sandbox," and saw they were child porn. These men included Dan Johnson of People Against the NDAA, Stewart Rhodes of Oathkeepers, and several others. These men were aware that Brian David Hill had also had child porn downloaded onto his computer.

According to the Document #123 Transcript, the Hon. Judge Schroeder forgot to bring up this part of the transcript in his order.

Page 38 of 84:

"Q When you stated that he turned over the phone to you, did he voluntarily do that?"

"A Yes, ma'am."

"Q You didn't ask him any questions about it? He just voluntarily contacted you or how -- I'm sorry. Help me understand. How did you get the phone?"

"A He did contact me to indicate -- we'd had a previous incident where information -- I was told by the family and him that the Mayodan Police Department had returned evidence to them that contained child pornography. When I asked to see that, they indicated it had been destroyed. During that time, I indicated that if this ever happens again or anything like that ever happens to let me know. So he contacted me after receiving that email -- or text message, sorry, whatever it was, and he turned it over to me within a couple of days."

"Q So he voluntarily did it?"

"A Yes."

That is an affirmative defense under “18 U.S. Code § 2252A - Certain activities relating to material constituting or containing child pornography”.

Brian David Hill was compliant with federal child pornography law in this instance and that should not have been an issue to be used against Defendant/Petitioner in denying his Motion to Stay of Judgment pending Appeal.

Error of law #4:

Judge Schroeder; Page 7 of 8: *“Not only was the court unaware of the error, more importantly the filing had no influence on the court’s independent determination it made based on the evidence presented at the revocation hearing.”*

That is interesting when the very Document #180 listed on pages 19 to 20 of Document #195, stated that Defendant/Petitioner was to have:

1. Been ordered to a high end of imprisonment (referring to the 10 months), and that it had been entered under the name of Brian David Hill and the correct case number for such a supposed template. The only reason why the Hon. Judge Schroeder ordered 9 months of imprisonment instead of 10 months was because of the statutory maximum that was requested by Assistant U.S. Attorney Anand Prakash Ramaswamy, the Government counsel in this case. So the 10 months was what Judge Schroeder apparently wanted but could only give 9 months, so that was similar.
2. Been ordered to the custody of the Federal Bureau of Prisons.
3. Finding that Brian David Hill was guilty of a commission of a crime on September 21, 2018, despite when the Martinsville Circuit Court has not yet come to such decision as Trial De Novo erases the conviction in General District Court and new trial had been ordered.
4. That Brian had been revoked of Supervised Release.

5. And that Brian had been represented by Attorney Renorda Pryor.

Judge Schroeder; Page 7 of 8: "*The Defendant's contention that the court pre-determined the case is false.*"

Document #180 (Pages 19 to 20 of Document #195) looked way too perfect to simply be some template. It will be up to the U.S. Court of Appeals and a judicial investigation into Judge Schroeder to determine whether Brian's contention was false or true. It is ironic that Judge Schroeder is having to defend himself against an allegation, when that has been all Brian David Hill has been able to do is consistently having to defend himself against false allegations right and left since 2012. Even if any element of an allegation was true against Brian, Judge Schroeder is seeing what it is like to being accused of something even though he has never reportedly been a criminal defendant and never got to experience what every criminal defendant has had to ever go through in the criminal justice system. Has he even wore their shoes? Has he ever been to prison and seen what it's like?

Also the fact that U.S. Probation Officer Kristy L. Burton was given more credibility and respect, but the good conduct of Brian David Hill with U.S. Probation Officer Jason McMurray was ignored and not taken into consideration by the same Judge Does In-Fact show evidence that it was premeditated/prejudice.

The fact that the Hon. Judge Schroeder gave the maximum imprisonment by (#1) didn't take his compliance under the bond conditions into account (*May 14, 2015 and is still compliant with all of the bond conditions till even this day of October 5, 2019, and beyond*); (#2) didn't take into account his compliance with the conditions of Supervised Release from the August 13, 2015 infraction under Document #124 (filed September 4, 2015) all the way until September 21, 2018 (calculated at 3 years, 1 month, and 8 days) when Brian exhibited a weird and abnormal behavior that he had never done before in the 28 years of Brian being

alive; (#3) didn't take into account that Brian and his family had respected Brian's Probation Officer Jason McMurray. Even before the infraction, Brian had been compliant and respectful with USPO McMurray during the home detention, an additional June 30, 2015 when released until August 13, 2015 before the day of infraction, 12 additional days calculated, in total would be 3 years, 1 month, and 20 days. The infraction should not count against Brian David Hill for the Final Revocation hearing because it conflicts with the affidavit of Brian's actual innocence inside of his 2255 Motion under Document #125 and #128 brief/memorandum and was filed in November, 2017, putting Brian at risk of multiple federal perjury charges just to simply get Brian to comply with sex offender treatment when that requires that Brian be forced against his will to commit criminal acts of multiple felony acts of perjury against his claims of actual innocence. None of Brian's good behavior, respect and compliance with Brian's Probation Officer Jason McMurray was taken into account at all in his decision on September 12, 2019, and none of anything at all was taken into account in Brian's favor. Sounds to me like Judge Schroeder is not exonerated of his premeditated order under Document #180 (Pages 19 to 20 of Document #195) and that simply him claiming Defendant's/Petitioner's contentions was "false" is not sufficient to prove that the Hon. Judge Schroeder is innocent of Brian's allegations of being partial, prejudicial, and biased towards Brian David Hill and is partially in favor of the Government and the liar/perjurer Kristy L. Burton. The Hon. Judge Schroeder was okay with picking at Brian's grandmother having a pre-paid cell phone with child pornography received on it but did not take Attorney Susan Basko's (Document #46) declaration into account that said anyone who receives unsolicited child pornography can report it to a law enforcement agency and turn in such device and is considered actual innocence under an affirmative defense to the child pornography law. Brian's conduct was lawful and in good faith. Judge Schroeder

jumped on any allegation against Brian that looks bad but the record says different. That is an abuse of discretion and is an error of law, false facts submitted on court record, a fraud upon the court. When Brian is complying with federal law and reporting any issues or knowledge of any criminal activity going on against Brian and his family, reporting the matter to law enforcement, that should not be used against him in denying his Motion for Stay of Judgment pending Appeal.

Last note here was that Brian had received threatening text messages in 2015, threatening emails in 2013, all about setting him up with child pornography. All of them were reported to a law enforcement agency or contact. That was before Brian had reported the child pornography being received from an anonymous person (unsolicited) on his grandmother's pre-paid cell phone.

The allegations against Judge Schroeder have still not been resolved. His answer is not sufficient to prove that he is not guilty of that misconduct of a premeditated order under Document #180.

Threatening message #1: Exhibit A — Document #71, Attachment #1
Threatening message #2: Exhibit B — Document #71, Attachment #2

Whistleblower message #1: Exhibit D — Document #71, Attachment #4

Proof from Defendant's/Petitioner's side that Tracfone was voluntarily given to USPO Kristy L. Burton and goes along with her statement on that regard under oath: Exhibit E — Document #71, Attachment #5

Threatening text messages reported to law enforcement agency N.C. State Bureau of Investigation: Exhibit F — Document #71, Attachment #6

Threatening message #3: Document #84, Attachment #7

Threatening message #4: Document #84, Attachment #8

After all of this gets argued before the U.S. Court of Appeals on the records in this case, it is clear that the Hon. Judge Thomas D. Schroeder has abused his discretion,

ignored evidence, ignored witnesses like USPO Jason McMurray, made errors of law and made errors of record, and took no evidence into consideration in Brian's favor on September 12, 2019. Prejudice, partiality, dereliction of duty?

It is clear that the U.S. Court of Appeals will rule in favor of Brian's appeals including the Writ of Mandamus.

It is also interesting that the Hon. Judge Thomas D. Schroeder and any of his legal staff had taken the time and research into producing 8 pages of order under (Document #198) dated October 4, 2019, that the error under Document #180 was already reportedly by the Order as a template that looked as though it wouldn't take long to produce a written judgment for the Notice of Appeal under Document #187 and Document #190 to finally be docketed. Despite the Court of Appeals reminding Judge Schroeder through the Clerk's office on September 20, 2019, to file the written judgment (USCA4 Appeal: 19-2077, Doc: 3, Filed: 10/02/2019, Pg: 54 of 68). Despite being served with a copy of the petitioned Writ of Mandamus (USCA4 Appeal: 19-2077, Doc: 2, Filed: 10/02/2019, all pages: 1 through 21). Instead of making sure to do his duty and file the written judgment, he is taking the time to deny two motions and write a lot of errors of law, conclusory facts by assumptions, and abuses of discretion. He rather file an order denying two motions rather than make sure that Defendant's/Petitioner's right to direct appeal under the Constitution and as of matter of law, matter of right, being protected by the court.

It is clear that the Hon. Judge Thomas D. Schroeder of Winston-Salem, North Carolina, has decided to rebel against the U.S. Court of Appeals which is disrespect and mockery of the higher courts, that may be willing to flaunt his contempt and disrespect to the higher court, out of fear that his judgment or judgments may be remanded and vacated as a matter of facts and/or as a matter of law. He is mocking the Appellate Court by failing or refusing to file the written

judgment. It normally takes a week, especially after allegedly admitting in his order as to Document #180 (Pages 19 to 20 of Document #195) being simply a template from another case as he argued in his defense to Brian's allegations in Document #195. He and his staff has allegedly taken the time to already have a template as he had claimed, took the time to file 8 pages of an order denying motions, but doesn't seem to be filing the written judgment necessary for the direct appeal of the Final Revocation hearing on September 12, 2019. In eight (8) days, it will be an entire month that Judge Schroeder may or may not file his written judgment. It is as if he is flaunting his disrespect towards the U.S. Court of Appeals in Richmond, Virginia, because they may not view his decision favorable in another state outside of North Carolina State Senator Philip Edward Berger Senior's and his son Phil Berger Jr.'s jurisdiction (Phil Berger was allegedly called a dictator by a law professor in North Carolina).

I think it is about time for the Court of Appeals to order the Hon. Judge Thomas D. Schroeder to enter his written judgment by a fixed time period or he should face contempt of a higher court. No judge should disobey his superiors that are honorable judges of a higher court. The whole judicial system of Government is about following the rules and following your duties.

The Honorable Judge Thomas D. Schroeder needs to remember to follow the law.
Respectfully filed with the Court, this the 5th day of October, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Signed
Brian D. Hill (Pro Se)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112
Phone #: (276) 790-3505



Former U.S.W.G.O. Alternative News reporter
I stand with QANON/Donald-Trump – Drain the Swamp
Brian asks Donald Trump for a full pardon of innocence, asks Qanon for help
Make America Great Again

Defendant/Petitioner also requests with the Court that a copy of this pleading be served upon the Government as stated in 28 U.S.C. § 1915(d), that "The officers of the court shall issue and serve all process, and preform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases". Petitioner requests that copies be served with the U.S. Attorney office of Greensboro, NC via CM/ECF Notice of Electronic Filing ("NEF") email, by facsimile if the Government consents, or upon U.S. Mail.

Thank You!

CERTIFICATE OF SERVICE

Petitioner hereby certifies that on October 5, 2019, service was made by mailing the original of the foregoing:

"PETITIONER'S NOTICE OF APPEAL"

by deposit in the United States Post Office, in an envelope (certified mail), Postage prepaid, on October 5, 2019 addressed to the Clerk of the Court in the U.S. District Court, for the Middle District of North Carolina, 324 West Market Street, Greensboro, NC 27401.

Then pursuant to 28 U.S.C. §1915(d), Petitioner requests that the Clerk of the Court move to electronically file the foregoing using the CMIECF system which will send notification of such filing to the following parties to be served in this action:

Anand Prakash Ramaswamy U.S. Attorney Office	Angela Hewlett Miller U.S. Attorney Office
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Civil Case # 1:17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 Anand.Ramaswamy@usdoj.gov	Civil Case # 1: 17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 angela.miller@usdoj.gov
JOHN M. ALSUP U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 john.alsup@usdoj.gov	

This is pursuant to Petitioner's "In forma Pauperis" ("IFP") status, 28 U.S.C. §1915(d) that "The officers of the court shall issue and serve all process, and perform all duties in such cases ... "the Clerk shall serve process via CM/ECF to serve process with all parties.

Date of signing: <u>October 5, 2019</u>	<p>Respectfully submitted, <u>Brian D. Hill</u> <u>Signed</u> Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1 Martinsville, Virginia 24112 Phone #: (276) 790-3505</p> <p>U.S.W.G.O.</p> <p>I stand with QANON/Donald-Trump – Drain the Swamp I ask Qanon and Donald John Trump for Assistance (S.O.S.) Make America Great Again</p>
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I ask Department of Defense ("DOD") military Constitutional oath keepers, alliance, Qanon for help in protecting me from corruption and criminal behavior of Government. There needs to be an investigation. There needs to be an investigation into this "dictator" NC Senator Philip Edward Berger as one law professor has called him in his own opinion.

Certified Mail tracking no: 7019-1120-0001-4751-4757

Joint Appendix 3

USWGO
QANON // DRAIN THE SWAMP
MAKE AMERICA GREAT AGAIN



UNITED STATES DISTRICT COURT CASE NO. 1:13-CR-435-1
MIDDLE DISTRICT OF NORTH CAROLINA
UNITED STATES COURT OF APPEALS
FOURTH CIRCUIT CASE NO. 19-7483

Joint Appendix in attachment to "INFORMAL BRIEF, No. 19-7483, US v. Brian Hill"
U.S. Court of Appeals for the Fourth Circuit

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINAUNITED STATES OF AMERICA)
)
 v.) 1:13CR435-1
)
 BRIAN DAVID HILL)**JUDGMENT AND COMMITMENT**
Supervised Release Violation Hearing

On August 9, 2019, a hearing was held on a charge that the Defendant had violated the terms and conditions of supervised release as set forth in the Court's Order filed July 24, 2015 and the Judgment filed November 12, 2014 in the above-entitled case, copies of which are attached hereto and incorporated by reference into this Judgment and Commitment.

The Defendant was represented by Renorda E. Pryor, Attorney.

The Defendant was found to have violated the terms and conditions of his supervised release. The violation(s) as follow were willful and without lawful excuse.

Violation 1. On September 21, 2018, the Defendant was arrested for the commission of a crime.

IT IS ORDERED that the Defendant's supervised release be revoked. The Court has considered the U.S. Sentencing Guidelines and the policy statements, which are advisory, and the Court has considered the applicable factors of 18 U.S.C. §§ 3553(a) and 3583(e).

IT IS ORDERED that the Defendant be committed to the custody

of the Bureau of Prisons for imprisonment for a period of ten (10) months.

IT IS FURTHER ORDERED that no additional term of supervision be imposed as to this Defendant.

IT IS RECOMMENDED that the Defendant be permitted to participate in any available drug treatment program and be designated to a facility as close as possible to his home in North Carolina.

The Defendant is remanded to the custody of the United States Marshal.

United States District Judge

_____, 2019.